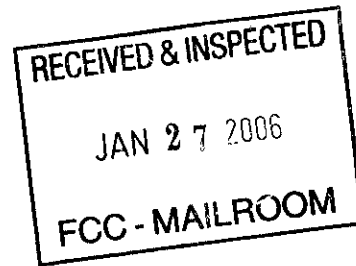


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To: Federal Communications Commission
Company:
Phone: 1-202-418-0187
Fax:
CC:

From: Jon Sverdin
Phone: 303-853-3228
Fax: 303-289-1120

I am Submitting an appeal to the FCC
from a ruling by Shores + Libraries.

Jon Sverdin
~~Adams~~ Adams County School District 14
4720 E. 69th Ave.
Commerce City, CO 80022
Ph. 303-853-3228
Email: jsverdi@ACSD14.k12.co.us

Reference CC Docket No 96-45
CC Docket No 02-6

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COUNTY
SCHOOL
DISTRICT 14**



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Touching the Future*

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Learn and Will Be At
OR Above Grade
Level**

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80022

Phone:
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Web Site:
www.acsd14.k12.co.us

Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Room TW-A325
Washington, DC 20554

January 26, 2006

CC Docket No. 02-6
CC Docket No. 98-45 and CC Docket No. 02-6

To Whom It May Concern:

Adams County School District 14, Billed Entity Number 142123 is requesting a review by the FCC in regards to the Schools and Libraries denial of our appeal to reverse their decision on rescinding previously approved E-Rate Funding for funding year 2004-2005.

Specifically, the SLD had rescinded approved E-Rate funding for the following FRN's:

471 Number	FRN	Amount
425352	1184170	\$123,495.97
425151	1183258	\$95,853.11
426285	1183614	\$80,053.88
425211	1183772	\$81,473.43
425303	1183988	\$55,352.37
		\$436,228.76

I have included as background information, the approved Funding Commitment Decision Letter for FRN 1183614, the Commitment Adjustment Letter, our appeal letter and finally the SLD decision letter. I am only sending the letter to reflect one FRN because the correspondence regarding the other four FRN's is the same. I did this to save you time and paper.

To summarize the events, Adams County School District 14 had filed for E-Rate Internal Connection funding to purchase network hardware to improve the bandwidth within our schools from 10Mbps to 100Mbps. We were approved in July 2004. We moved forward, we filed a SPIN change because our original vendor went out of business, then filed for Service Substitutions and were approved for both. I would like to also add that during the same time frame, Adams County School District 14 was responding to questions on the Selective Review regarding the very same FRN's.

Our original appeal letter explains our side, and we are now requesting a review by the FCC because we do not agree with the decision by the Schools and Libraries. We believe that the Schools and Libraries did err during their approval process because according to the rules, they should not have been approved to start with. Since they were approved and we went forward with our purchases assuming that we would be reimbursed at 90%,

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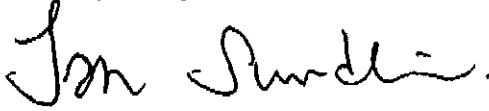
JAN 27 2006

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only to find out that they were rescinded has had a negative impact on supporting student achievement in our district. We filed our applications in the spirit of the program, and had no intention of fraud, waste or abuse. We have sorely felt the impact of this rescission; our budget was impacted negatively since we used funds identified for student workstations to cover promised funds from E-Rate. Our district's Free and Reduced population is 86%, and 47% are English Language Learners. We are a high need district and rely on funds from programs like E-Rate and grants to help us give our students a competitive advantage in our world.

I believe that when you do read these documents it will be apparent that both the Schools and Libraries and our district made mistakes in these applications. Can we share the responsibility with Schools and Libraries? Is there a possibility that somehow we can be approved for half our promised funding? We hope that you will consider our dilemma and reach a decision that will make a positive impact for our schools and students.

Thank you for your consideration in this matter,



Jan Swerdlin
Technology Services Manager
Tel: 303-853-3228
Fax: 303-289-1120
Email: jcswerdl@acsd14.k12.co.us



Universal Service Administrative Company
Schools & Libraries Division

FUNDING COMMITMENT DECISION LETTER

(Funding Year 2004: 07/01/2004 - 06/30/2005)

July 20, 2004

Jan Swerdlin
ADAMS COUNTY SCHOOL DIST 14
4720 East 69th Avenue
COMMERCE CITY, CO 80022-2380

Re: Form 471 Application Number: 426285
Funding Year 2004: 07/01/2004 - 06/30/2005
Billed Entity Number: 142123
Applicant's Form Identifier: Central

Thank you for your Funding Year 2004 E-rate application and for any assistance you provided throughout our review. Here is the current status of the funding request(s) featured in the Funding Commitment Report at the end of this letter.

- The amount, \$87,623.39 is "Approved."

Please refer to the Funding Commitment Report on the page following this letter for specific funding request decisions and explanations.

The Important Reminders and Deadlines immediately preceding this letter are provided to assist you throughout the application process.

NEXT STEPS

- Review technology planning approval requirements
- Review CIPA Requirements
- File Form 486
- Invoice the SLD using the Form 474 (service providers) or Form 472 (Billed Entity)

FUNDING COMMITMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Report for the Form 471 application cited above. The enclosed report includes a list of the Funding Request Number(s) (FRNs) from your application. The SLD is also sending this information to your service provider(s) so preparations can be made to begin implementing your E-rate discount(s) after you file your Form 486. Immediately preceding the Funding Commitment Report, you will find a guide that provides a definition for each line of the Report.

TO APPEAL THIS DECISION:

If you wish to appeal the decision indicated in this letter, your appeal must be received by the SLD or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify which Funding Commitment Decision(s) you are appealing. Indicate the relevant funding year and the date of the FCRL. Your letter of appeal must also include the Billed Entity Name, the

Form 471 Application Number, and the Billed Entity Number from the top of your letter.

3. When explaining your appeal, copy the language or text from the Funding Commitment Report that is at the heart of your appeal, to allow the SLD to more readily understand your appeal and respond appropriately. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.
4. Provide an authorized signature on your letter of appeal.

If you are submitting your appeal on paper, please send your appeal to: Letter of Appeal, Schools and Libraries Division, Box 125 - Correspondence Unit, 80 South Jefferson Road, Whippany, NJ 07981. Additional options for filing an appeal can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We encourage the use of either the e-mail or fax filing options.

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, sent to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use either the e-mail or fax filing options.

NOTICE ON RULES AND FUNDS AVAILABILITY

Applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Universal Service Support Mechanism. Applicants who have received funding commitments continue to be subject to audits and other reviews that USAC and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with all such requirements. The SLD may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by the SLD, the applicant, or the service provider. The SLD, and other appropriate authorities (including but not limited to USAC and the FCC), may pursue enforcement actions and other means of recourse to collect erroneously disbursed funds. The timing of payment of invoices may also be affected by the availability of funds based on the amount of funds collected from contributing telecommunications companies.

Schools and Libraries Division
Universal Service Administrative Company

A GUIDE TO THE FUNDING COMMITMENT REPORT

A report for each E-rate funding request from your application is attached to this letter. We are providing the following definitions for the items in that report.

FORM 471 APPLICATION NUMBER: The unique identifier assigned to a Form 471 application by the SLD.

FUNDING REQUEST NUMBER (FRN): A Funding Request Number is assigned by the SLD to each Block 5 of your Form 471 once an application has been processed. This number is used to report to applicants and service providers the status of individual funding requests submitted on a Form 471.

FUNDING STATUS: Each FRN will have one of the following definitions:

1. An FRN that is "Funded" is approved at the level that the SLD determined is appropriate for this FRN. The funding level will generally be the level requested unless the SLD determines during the application review process that some adjustment is appropriate.
2. An FRN that is "Not Funded" is one for which no funds were committed. The reason for the decision will be briefly explained in the "Funding Commitment Decision Explanation." An FRN may be "Not Funded" because the request does not comply with program rules, or because the total amount of funding available for this Funding Year was insufficient to fund all requests.
3. An FRN that is "As Yet Unfunded" reflects a temporary status that is assigned to an FRN when the SLD is uncertain at the time the letter is generated whether there will be sufficient funds to make commitments for requests for Internal Connections at a particular discount level. For example, if your application included requests for discounts on both Telecommunications Services and Internal Connections, you might receive a letter with funding commitments for your Telecommunications Services funding requests and a message that your Internal Connection requests are "As Yet Unfunded." You would receive one or more subsequent letters regarding the funding decision on your Internal Connections requests.

SERVICES ORDERED: The type of service ordered from the service provider, as shown on your Form 471.

SPIN (Service Provider Identification Number): A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support mechanisms. A SPIN is also used to verify delivery of services and to arrange for payment.

SERVICE PROVIDER NAME: The legal name of the service provider.

CONTRACT NUMBER: The number of the contract between the eligible party and the service provider. This will be present only if a contract number was provided on your Form 471.

BILLING ACCOUNT NUMBER: The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on your Form 471.

SERVICE START DATE: The date services were reported to start for this FRN on your Form 471.

CONTRACT EXPIRATION DATE: The date the contract expires. This will be present only if a contract expiration date was provided on your Form 471.

SITE IDENTIFIER: The Entity Number listed in Form 471, Block 5, Item 22a. This will be present only for "site specific" FRNs.

ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE RECURRING CHARGES: Eligible monthly pre-discount amount approved for recurring charges multiplied by number of months of recurring service approved for the funding year.

ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE NON-RECURRING CHARGES: Annual eligible non-recurring charges approved for the funding year.

PRE-DISCOUNT AMOUNT: Amount in Form 471, Block 5, Item 23I, as determined through the application review process.

DISCOUNT PERCENTAGE APPROVED BY THE SLD: The discount rate that the SLD has approved for this service.

FUNDING COMMITMENT DECISION: This represents the total amount of funding that the SLD has reserved to reimburse your service provider for the approved discounts for this service for this funding year. It is important that you and your service provider both recognize that the SLD should be invoiced and the SLD may direct disbursement of discounts only for eligible, approved services actually rendered.

FUNDING COMMITMENT DECISION EXPLANATION: This entry provides an explanation of the amount in the "Funding Commitment Decision."

FUNDING COMMITMENT REPORT

Form 471 Application Number: 426285
Funding Request Number: 1183614 Funding Status: Funded
Services Ordered: Internal Connections
SPIN: 143021138 Service Provider Name: Space Design Technology, LLC
Contract Number: N/A
Billing Account Number: N/A
Service Start Date: 07/01/2004
Contract Expiration Date: 06/30/2005
Site Identifier: 93328
Annual Pre-discount Amount for Eligible Recurring Charges: \$.00
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$97,359.32
Pre-discount Amount: \$97,359.32
Discount Percentage Approved by the SLD: 90%
Funding Commitment Decision: \$87,623.39 - FRN approved; modified by SLD
Funding Commitment Decision Explanation: The estimated one-time and/or monthly charge was changed to reflect the documentation provided by the applicant.

IMPORTANT REMINDERS & DEADLINES

Date: July 20, 2004
471 : 426285
BEN : 142123

The following information is provided to assist you throughout the application process. We recommend that you keep it in an easily accessible location and that you share it with the appropriate members of your organization.

FORM 486 DEADLINE - The Form 486 must be postmarked no later than 120 days after the Service Start Date you report on the Form 486 or no later than 120 days after the date of the Funding Commitment Decision Letter, whichever is later. If you are required to have a Technology Plan, that plan must be approved by the start of service for this funding year, you must indicate the SLD Certified Technology Approver who approved your plan and you must retain your approval letter and documentation of your monitoring of the progress toward your stated goals.

CHILDREN'S INTERNET PROTECTION ACT (CIPA) - You must be in compliance with CIPA and cannot request a waiver, if FY2004 is your Third Funding Year for the purposes of CIPA.

INVOICE DEADLINE - Invoices must be postmarked no later than 120 days after the last date to receive service - including extensions - or 120 days after the date of the Form 486 Notification Letter, whichever is later. Invoices should not be submitted until the invoiced products and services have been delivered and billed, and (for BEAR Forms) the provider has been paid.

OBLIGATION TO PAY NON-DISCOUNT PORTION - Applicants are required to pay the non-discount portion of the cost of the products and/or services. Service providers are required to bill applicants for the non-discount portion. The FCC has stated that requiring applicants to pay their share ensures efficiency and accountability in the program. If you are using a trade-in as part of your non-discount portion, please refer to the SLD web site.

RETAIN DOCUMENTATION - Applicants must retain documentation, including but not limited to, documents showing:

- compliance with all applicable competitive bidding requirements,
- products and/or services delivered (e.g., customer bills detailing make, model and serial number),
- resources necessary to make effective use of E-rate discounts, including the purchase of equipment such as workstations not eligible for support,
- the specific location of each item of E-rate funded equipment, and
- the applicant has paid the non-discount portion.

These documents must be retained and available for review for 5 years.

SUSPENSION AND DEBARMENT - Persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the Schools and Libraries Support Mechanism are subject to suspension and debarment from the program.

FREE SERVICES ADVISORY - Applicants and service providers are prohibited from using the Schools and Libraries Support Mechanism to subsidize the procurement of ineligible or unrequested products and services, or from participating in arrangements that have the effect of providing a discount level to applicants greater than that to which applicants are entitled.

Complete program information - including more information on these reminders - is posted to the Schools and Libraries Division (SLD) web site at www.sl.universalservice.org. You may also contact the SLD Client Service Bureau by e-mail using the "Submit a Question" link on the SLD web site, by fax at 1-888-276-8736 or by phone at 1-888-203-8100.



**Universal Service Administrative Company
Schools & Libraries Division**

Notification of Commitment Adjustment Letter

Funding Year 2004: 7/01/2004 - 6/30/2005

June 16, 2005

**Jan Swerdlin
ADAMS COUNTY SCHOOL DIST 14
4720 East 69th Avenue
COMMERCE CITY, CO 80022 2380**

Re: Form 471 Application Number: 426285

Funding Year: 2004

Applicant's Form Identifier: Central

Billed Entity Number: 142123

FCC Registration Number: 11793981

SPIN Name: Foundry Networks, Incorporated

Service Provider Contact Person: Ben Taft

Our routine review of Schools and Libraries Program funding commitments has revealed certain applications where funds were committed in violation of program rules.

In order to be sure that no funds are used in violation of program rules, the Schools Libraries Division (SLD) of the Universal Service Administrative Company (USAC) must now adjust your overall funding commitment. The purpose of this letter is to make the adjustments to your funding commitment required by program rules, and to give you an opportunity to appeal this decision. USAC has determined the applicant is responsible for all or some of the program rule violations. Therefore, the applicant is responsible to repay all or some of the funds disbursed in error (if any).

This is NOT a bill. If recovery of disbursed funds is required, the next step in the recovery process is for SLD to issue you a Demand Payment Letter. The balance of the debt will be due within 30 days of the Demand Payment Letter. Failure to pay the debt within 30 days from the date of the Demand Payment Letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." Please see the "Informational Notice to All Universal Service Fund Contributors, Beneficiaries, and Service Providers" at www.universalservice.org/new/2004.asp#083104 for more information regarding the consequences of not paying the debt in a timely manner.

TO APPEAL THIS DECISION:

If you wish to appeal the Commitment Adjustment Decision indicated in this letter, your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify the date of the Notification of Commitment Adjustment Letter and the Funding Request Numbers you are appealing. Your letter of appeal must include the Billed Entity Name, the Form 471 Application Number, Billed Entity Number, and FCC Registration Number (FCC RN) from the top of your letter.
3. When explaining your appeal, copy the language or text from the Notification of Commitment Adjustment Letter that is the subject of your appeal to allow the SLD to more readily understand your appeal and respond appropriately. Please keep your letter specific and brief, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.
4. Provide an authorized signature on your letter of appeal.

If you are submitting your appeal electronically, please send your appeal to appeals@sl.universalservice.org using your organization's e-mail. If you are submitting your appeal on paper, please send your appeal to: Letter of Appeal, Schools and Libraries Division, Box 125 - Correspondence Unit, 80 South Jefferson Road, Whippany, NJ 07981. Additional options for filing an appeal can be found in the "Appeals Procedure" posted in the Appeals Area of the SLD section of the USAC web site or by contacting the Client Service Bureau at 1-888-203-8100. We strongly recommend that you use the electronic appeals options.

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC web site, or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

FUNDING COMMITMENT ADJUSTMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Adjustment Report (Report) for the Form 471 application cited above. The enclosed Report includes the Funding Request Number(s) from your application for which adjustments are necessary. Immediately preceding the Report, you will find a guide that defines each line of the Report.

The SLD is also sending this information to your service provider(s) for informational purposes. If USAC has determined the service provider is also responsible for any rule violation on these Funding Request Numbers, a separate letter will be sent to the service provider detailing the necessary service provider action.

Please note that if the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount. Please note the Funding Commitment Adjustment Explanation in the attached Report. It explains why the funding commitment is being reduced. Please ensure that any invoices that you or your service provider submit to USAC are consistent with program rules as indicated in the Funding Commitment Adjustment Explanation. If the Funds Disbursed to Date amount exceeds your Adjusted Funding Commitment amount, USAC will have to recover some or all of the disbursed funds. The Report explains the exact amount (if any) the applicant is responsible for repaying.

Schools and Libraries Division
Universal Services Administrative Company

cc: Ben Taft
Foundry Networks, Incorporated

A GUIDE TO THE FUNDING COMMITMENT ADJUSTMENT REPORT

A report for each *F-rate funding request* from your application for which a commitment adjustment is required is attached to this letter. We are providing the following definitions for the items in that report.

FUNDING REQUEST NUMBER (FRN): A Funding Request Number is assigned by the SLD to each individual request in your Form 471 once an application has been processed. This number is used to report to applicants and service providers the status of individual discount funding requests submitted on a Form 471.

SERVICES ORDERED: The type of service ordered from the service provider, as shown on Form 471.

SPIN (Service Provider Identification Number): A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support mechanisms. A SPIN is also used to verify delivery of services and to arrange for payment.

SERVICE PROVIDER NAME: The legal name of the service provider.

CONTRACT NUMBER: The number of the contract between the applicant and the service provider. This will be present only if a contract number was provided on your Form 471.

BILLING ACCOUNT NUMBER: The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on your Form 471.

SITE IDENTIFIER: The Entity Number listed in Form 471, Block 5, Item 22a. This number will only be present for "site specific" FRNs.

ORIGINAL FUNDING COMMITMENT: This represents the original amount of funding that SLD had reserved to reimburse you for the approved discounts for this service for this funding year.

COMMITMENT ADJUSTMENT AMOUNT: This represents the amount of funding that SLD has rescinded because of program rule violations.

ADJUSTED FUNDING COMMITMENT: This represents the adjusted total amount of funding that SLD has reserved to reimburse for the approved discounts for this service for this funding year. If this amount exceeds the Funds Disbursed to Date, the SLD will continue to process properly filed invoices up to the new commitment amount.

FUNDS DISBURSED TO DATE: This represents the total funds that have been paid to the identified service provider for this FRN as of the date of this letter.

FUNDS TO BE RECOVERED FROM APPLICANT: This represents the amount of improperly disbursed funds to date as a result of rule violation(s) for which the applicant has been determined to be responsible. These improperly disbursed funds will have to be recovered from the applicant.

FUNDING COMMITMENT ADJUSTMENT EXPLANATION: This entry provides an explanation of the reason the adjustment was made.

**Funding Commitment Adjustment Report for
Form 471 Application Number: 426285**

Funding Request Number:	1183614
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143022896
Service Provider Name:	Foundry Networks, Incorporated
Contract Number:	N/A
Billing Account Number:	
Site Identifier:	142123
Original Funding Commitment:	\$80,053.88
Commitment Adjustment Amount:	\$80,053.88
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$0.00
Funds to be Recovered from Applicant:	\$0.00
Funding Commitment Adjustment Explanation:	

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that the applicant did not have a contract in place at the time of submission of the Form 471. This determination was based on documentation provided by the applicant that this contracted service was awarded after 02/03/2004, while submission of the Form 471 was 02/03/2004. FCC rules require applicants to have a contract, signed by both parties, at the time they submit the Form 471. Since the applicant was unable to demonstrate that they had a signed contract in place at the time of submission of the Form 471, the commitment has been rescinded in full.

**PLEASE SEND A COPY OF THIS PAGE WITH YOUR
CHECK TO ENSURE TIMELY PROCESSING**

**ADAMS
COUNTY
SCHOOL
DISTRICT 14**



*Reaching the Stars,
Touching the Future*

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Administration Building
4720 East 69th Avenue
Commerce City, CO
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Phone:
303-863-3333
FAX:
303-288-9753
Web Site: acsd14.k12.co.us

Letter of Appeal
Schools and Libraries Division
Box 125 – Correspondence Unit
80 South Jefferson Road
South Whippany, NJ 07981

CC: Ben Taft, Foundry Networks, Incorporated

August 2, 2005

To Whom It May Concern:

We are writing to inform you that Adams County School District 14, Billed Entity 142123 is appealing your decision to rescind our approved E-Rate requests, for funding year 2004 – 2005.

These rescinded FRN's are listed below;

471 Number	FRN	Amount
425352	1184170	\$123,495.97
425151	1183258	\$95,853.11
426285	1183614	\$80,053.88
425211	1183772	\$81,473.43
425303	1183988	\$55,352.37
		\$436,228.76

Under your guidelines for the appeal process, appeals may be granted under the following guidelines:

1. When the appeal makes clear that the SLD erred in its initial review. If the SLD makes a mistake (for example, denies funding because the request includes 30% or more of ineligible services), and the appeal points out that mistake (demonstrates that all the services were in fact eligible or that the cost of ineligible services was not included in the original request), the SLD will grant the appeal.
2. When the appeal makes clear that the applicant made a mistake in information provided in or with the application leading to funding denial and that the SLD could have identified the mistake from information provided with the application. If the applicant made a

mistake in completing the Form 471 (for example, put in the wrong contract award date in Block 5) and had provided information to the SLD either with the application or during PIA review (for example, provided a copy of the contract to PIA during review with the award date indicated) and when the appeal points out the mistake (the wrong contract award date) and how the SLD could have seen the mistake (from the contract provided during review), the SLD will grant the appeal.

We are appealing your decision on the basis that both of these two circumstances are true:

1. When the appeal makes clear that the SLD erred in its initial review.
2. When the appeal makes clear that the applicant made a mistake in information provided in or with the application leading to funding denial and that the SLD could have identified the mistake from information provided with the application.

Your rescission correspondence states "During the course of review it was determined that the applicant did not have a contract in place at the time of submission of the 471. This determination was based on documentation provided by the applicant that this contracted service was awarded after 02/03/2004, while submission of the Form 471 was 02/03/2004. FCC rules require applicants have a contract, signed by both parties, at the time they submit the Form 471. Since the applicant was unable to demonstrate that they had a signed contract in place at the time of submission of the Form 471, the commitment has been rescinded in full"

This is correct; the applicant did not have a signed contract in place at the time the Form 471 was submitted. However, I believe that the reviewers should have and could have noticed this error since these applications were reviewed multiple times before the requested hardware was ever purchased. Why were we not asked to explain this omission? We have been contacted previously numerous times by the PIA's to explain or clarify any of our applications in the past. I can't understand why this was not flagged earlier in the process so that we could be given the opportunity to explain what we were purchasing.

The applications went through more than the initial review and approval. They actually had to have been reviewed five times, since changes to the vendor and service substitutions were approved.

- The 5 FRN's were approved 7/20/04.
- A SPIN change request was submitted by ACSD14 11/22/04 and approved by the SLD on 12/14/05.
- Service Substitution Requests were filed on 12/20/04 and approved on 12/28/04 for 1183258 and 1183772, on 1/7/05 for 1184170, 1/11/05 for 1183988, and 1/13/05 for 1183614.
- ACSD14 submitted the initial response to the Selective Review on 11/12/04 (Case SR-2004-BEN#142123) with follow-up answers submitted on 2/4/05.

- June 7, 2005 – These approved FRN's were rescinded.

Our appeal is also based on SLD appeal process that states "that the applicant made a mistake in information provided in or with the application leading to funding denial and that the SLD could have identified the mistake from information provided with the application".

The applicant did make a mistake; Adams 14 did not sign any contracts with vendors at the time our 471's were completed. We submitted vendor quotes as Attachment 21's, which according to your documentation on completing the attachment requirements that, *a price quotation from the service provider* is considered an approved attachment. If the documentation stated to include a "price quotation from the service provider AND a signed contract from the service provider", then this error would not have been made.

This mistake was made because of the lack of clarity for the requirements under Internal Connections. I believe that the directions to purchase hardware are not clear, and I still have trouble thinking of hardware as "purchased services". It is not a service. I have to wonder why vendors that we were working with didn't know about this requirement either. One would anticipate discussions on the part of the vendors and the district about what kind of a contract would work for both parties, a purchase order, a signed agreement that was pending E-Rate approval, or the like. This never came up. Both the district and the vendor believed that the quotes we submitted met the requirements of the program. Our intention once we made the vendor selection was an agreement that we would purchase the hardware once E-Rate was approved, however it was a verbal agreement. When we did purchase the equipment, it was exactly from the quotes we sent to you on attachment 21's. In our eyes, these quotes were our contracts to purchase the hardware, pending our E-Rate approval.

Your directions support the process and requirements for requesting discounts on telecommunications services, but not when requesting discounts on Priority 2 services. Applicants have to search through a 35 page document that describes the process for submitting Form 471's which I believe is very cumbersome and makes the whole process cumbersome and difficult to understand. The directions are vague and do a very poor job addressing hardware purchases. The hardware we were requesting clearly qualifies for E-Rate funding, we waited for our approvals to come and then purchased the equipment believing that we were following the rules and requirements. The SLD approved them, we purchased the hardware that is so desperately needed in our schools. Most of it is installed, our network response time has improved, and now everything has changed.

We are considered an "At-Risk" district due to the large percentage of our students who qualify for free/reduced lunches (79%). The loss of \$436,228.76 will have a **significant and major impact** on student achievement in our district. We will not be able to continue to upgrade our technology infrastructure and provide students with the tools they need to remain competitive with students in neighboring communities. Now we are facing an unanticipated outstanding balance with the vendor, and all along, we believed that we did


everything right. The applications were filed in the spirit of the program with absolutely no intention of causing waste, fraud and abuse of the system.

Please reconsider your decision to rescind our approved funding. Based upon documented appeal guidelines, the request is being made because of unintentional misinterpretation of the requirements, as well as the SLD not recognizing the errors through the 5 reviews that these applications went through.

Again, there was no intention to create any waste, fraud or abuse of the E-Rate program for which we are grateful and for the funding we do receive.

Please contact me if there are any questions you may have.

Sincerely,



Jan Swerdlin
Technology Services Manger
Phone: 303-853-3228
Fax: 303-289-1120
Email: jcswerdl@acsd14.k12.co.us



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2004-2005

November 28, 2005

Jan Swerdlin
Adams County School District 14
4720 East 69th Avenue
Commerce City, CO 80022

Re: Applicant Name: ADAMS COUNTY SCHOOL DIST 14
Billed Entity Number: 142123
Form 471 Application Number: 426285
Funding Request Number(s): 1183614
Your Correspondence Dated: August 02, 2005

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of SLD's Funding Year 2004 Commitment Adjustment Letter for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1183614
Decision on Appeal: **Denied**
Explanation:

- On appeal, you state that the SLD has erred in its initial review of the above cited funding request. You confirm that you did not have a signed contract in place at the time of the Form 471 submission. However, you believe that the SLD reviewers should have and could have noticed this error since the application was reviewed multiple times before the requested hardware was ever purchased. You also state that the contract error was made because of the lack of clarity in the requirements for Internal Connections and that the guidelines for purchasing hardware are unclear. You state that both the District and the vendor believed that the submitted quotes met the requirements of the Program. You state that the Adams County School District 14 had a verbal agreement with the service provider. The District would purchase the hardware, pending E-Rate approval.

- After a thorough review of the appeal and all relevant supporting documentation, it was determined that on February 4, 2005, you provided a written response to the Selective Review Information Request (SRIR) follow-up questions. The response stated, "...Adams County School District 14 did not sign any contract or enter into any agreement with SDT other than to obtain quotes..." On appeal, you state, "This is correct; the applicant did not have a signed contract in place at the time the Form 471 was submitted." Program Rules require that for services other than tariff or month-to-month services, a signed contract must be in place at the time of the Form 471 submission. You have failed to provide evidence on appeal that the SLD has erred in its initial decision.
- SLD has determined that, at the time you submitted your Form 471 application, you did not have a signed contract for services in place with your service provider(s) for services other than tariffed or month-to-month services. FCC rules require that applicants submit a completed FCC Form 471 "upon signing a contract for eligible services." 47 C.F.R. § 54.504(c). The FCC has consistently upheld SLD's denial of Funding Request Number(s) when there is no contract in place for the funding requested.¹ The FCC Form 471 instructions under Block 5 clearly state that you **MUST** sign a contract for all services that you order on your Form 471 except tariffed services and month-to-month services.² You did not provide evidence with your appeal that, at the time you signed your Form 471, you had signed a contract for eligible services. Consequently, SLD denies your appeal.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either the SLD or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

¹ Request for Review by Waldwick School District, Schools and Libraries Universal Service Support Mechanism, File No. SI.D-256981, CC Docket Nos. 02-6, Order, 18 FCC Rcd. 22,994, DA 03-3526 (2003).

² See Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (October 2003) at page 20.